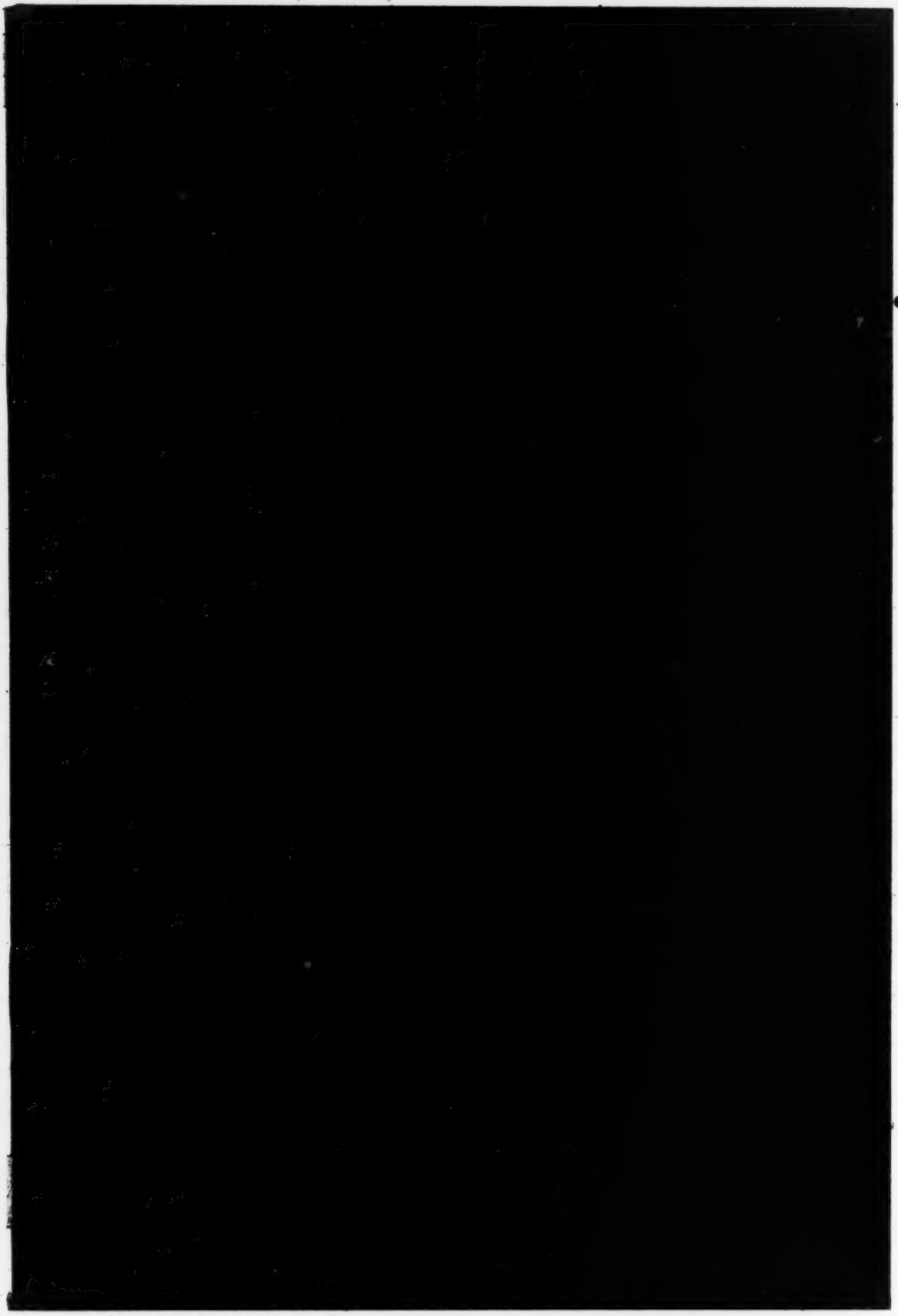

BLANK

PAGE

In the Supreme Court of the United States

OCTOBER TERM, 1966

No. 805

ELBERT M. D'AMICO, APPELLANT

v.

NATIONAL BROADCASTING COMPANY, ET AL.

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MOTION OF UNITED STATES TO DISMISS

Appellee United States, pursuant to Rule 16 of the Revised Rules of the Supreme Court of the United States, moves to dismiss on the ground that there is no jurisdiction to consider the appeal to this Court from the judgment of the court of appeals. In the alternative, if the appeal papers should be treated as a petition for a writ of certiorari, the petition should be denied.

Appellant's complaint in the United States District Court for the District of Columbia was the subject of a motion for dismissal by the United States

by reason of failure to state a claim in accordance with the requirements of Rule 8(a), F.R.Civ.P. The district judge, after considering the above motion and similar motions of the other defendants, dismissed the complaint. The court of appeals, on September 1, 1966, upon motion of the United States and of appellee National Broadcasting Company, Inc., and on consideration of the original record on appeal, dismissed the appeal as frivolous.

Appellant's complaint consists of vague allegations that the appellees are using him for some unspecified experiment. He states that he has recently and repeatedly been confined in mental hospitals. His complaint asserts that various radio stations, perhaps with the connivance of State and federal officials, have sent signals into appellant's home to retrieve material he has written or intends to write in the future. He also complains that he has been refused copyrights for his unwritten material.

It is apparent that there is no jurisdiction of any appeal to this Court from the judgment of the court of appeals. In any event, appellant has presented no question which would warrant review and decision by this Court. It is therefore respectfully submitted that the appeal should be dismissed. Treating the appeal papers as a petition for certiorari, the writ should be denied.

THURGOOD MARSHALL,
Solicitor General.

DECEMBER 1966

☆ U. S. GOVERNMENT PRINTING OFFICE: 1966 241902 487

BLANK

PAGE